

## REMARKS

The claims have not been amended except to show the current status.

Claims 3-4, 7, 9-11, 14-16, 18-19, 28, 30, 32-34 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claims, there being no allowable generic or linking claim. Applicants request that the withdrawn species claims be reinstated upon allowance of a generic claim.

Claims 1-2, 5-6, 8, 12-13, 17, 20, 27, 29 and 35 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,504,603 (Winker et al) in view of US 2004/0051831 A1 (Su Yu et al). According to the Examiner:

Regarding claims 1 and 2, x-layers have a property of O-plate and the Z-layer is negative C-plate according to the specification (page 10, line 1 and page 11, line 10-11), such that Winker discloses (col. 4, line 2-col. 5, line 65; Figs. 1-2 and 8) that a liquid crystal cell using one or more optical compensating elements (multilayer optical compensation film) comprising O-plate (X-layers) and C-plate (Z-layer), inherently, each layer Z (negative C-plate) satisfy the two relations:  $|n_x - n_y| < 0.001$  and  $\Delta n_{th} = n_z - (n_x + n_y)/2 < -0.005$ ; and the X layer (O-plate) comprises positively birefringent material (see col. 7, lines 58-65).

Winker does not explicitly disclose that the layer Z (C-plate) having a polymer with glass transition temperature above 180°C.

Su Yu discloses (paragraph 0102) that the retardation film (compensation film) is prepared from polymer at a temperature above the glass transition temperature, and the polymer should preferably be selected such that its glass transition or melting temperature is significantly higher than the operating temperature of the retarder, so as to leave a solid polymer, other wise it would be melted; and such method and suitable material are known to those skilled in the art.

Therefore, it would have been obvious to those skilled in the art at the time the invention was made to modify the multilayer compensation film of Winker with the teachings of the polymer applied at a temperature above its glass transition temperature as taught by Su Yu, since such method to form the retarder are known in the art and the skilled in the art would be motivated for leave a solid polymer.

The Examiner's rejection overlooks the term "amorphous" in the limitation of the polymeric material suitable for the layers Z. As described in the

specification (7/30 - 8/7), an amorphous polymer is one that does not show long-range order as evidenced by the absence of any sharp peak using X-ray diffraction analysis. There appears to be no suggestion of the materials to be employed for the Z layers of Winker. In particular there is no suggestion to use a polymer in the Z layer having a  $T_g$  less than 180°C nor a birefringence in the thickness direction ( $\Delta n_{th}$ ) more negative than -0.005. Winker references Clerc US 4,701,028 at col. 8/ln 19 as to negatively birefringent C-plates. However, the  $\Delta n_{th}$  value in Clerc at col. 6/ln 44 *et seq* is  $150/200,000 = \underline{-0.00075}$  which is far less than -0.005. On the other hand, in Example 3 of the present application, the  $\Delta n_{th}$  is -0.0375.

Yu does not satisfy the defects in the Winker teachings. Yu expressly teaches the use of crystalline polymer for the C plate (Page 3, [0055]) where it is said the film is cholesteric liquid crystal (CLC). The use of a liquid crystal layer is highly differentiated from the amorphous layer of the invention, and can be said to be the opposite.

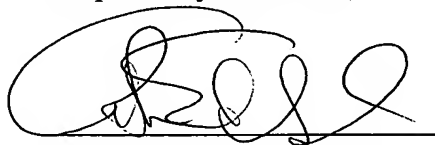
In summary, the cited references, whether taken alone or in combination due not suggest the present invention. The rejections of the dependent claims are not being addressed in view of the patentability of claim 1. However, it is noted that the Examiner's reliance on Elman et al, US 6,937,310, is inappropriate based on the following:

**STATEMENT OF COMMON OWNERSHIP**

The undersigned attorney hereby confirms that the subject application and the cited Elman patent, US 6,937,310, were, at the time the present invention was made, owned by or subject to an obligation to assignment to the same person.

In view of the foregoing remarks, the Examiner is respectfully requested to withdraw the outstanding rejection. The Examiner is also requested to reinstate and examine the claims to the now-withdrawn species and to pass the subject application to Allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Kluegel', written over a horizontal line.

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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.